

Message Text

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ACTION DLOS-09

INFO OCT-01 IO-13 ISO-00 ACDA-07 AGRE-00 AID-05 CEA-01

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DOTE-00 EB-07 EPA-01 ERDA-05 FEAE-00 FMC-01

TRSE-00 H-01 INR-07 INT-05 JUSE-00 L-03 NSAE-00

NSC-05 NSF-01 OES-07 OMB-01 PA-01 PM-04 PRS-01

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TO SECSTATE WASHDC 4292

C O N F I D E N T I A L SECTION 1 OF 3 USUN 2096

FROM: LOS DEL

DEPT. PASS ALL DIPLOMATIC POSTS

E.O. 11652: GDS

TAGS: PLOS

SUBJECT: LOS CONFERENCE - WEEKLY REPORT - CLASSIFIED

SUPPLEMENT WEEK OF JUNE 20 - 24, 1977

1. SUMMARY - UNCERTAINTY AS TO WHAT CHAIRMAN ENGO WILL DO WITH THE EVENSEN TEXTS MAKES IT DIFFICULT TO PREDICT THE FUTURE COURSE OF THE NEGOTIATIONS. WE MUST DEAL BOTH WITH G-77 ATTEMPTS TO TILT THE TEXTS, PARTICULARLY ON TECHNOLOGY TRANSFERS, AND WITH ENGO'S DESIRE TO PUT HIS OWN IMPRIMATUR ON THEM. COMMITTEE 2 NEOGITATINGS GROUPS ARE ACCOMPLISHING LITTLE. CONSIDERATION OF SCIENTIFIC RESEARCH IN COMMITTEE 3 IS SUSPENDED, WHICH IS PROBABLY JUST AS WELL GIVEN OUR DISSATISFACTION WITH CHAIRMAN'S TEXT PROPOSAL. DISPUTE SETTLEMENT IDSCUSSIONS ARE PROMISING, WITH MAIN PROBLEM BEING FISHERIES. THESE ARE PRIVATE TALKS OF NEGOTIATING AS A PACKAGE STATUS OF THE ECONOMIC
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ZONE, SCIENTIFIC RESEARCH, AND DISPUTE SETTLEMENT ON FISHERIES.
END SUMMARY.

2. COMMITTEE I

A. WHILE EVENSEN CONTINUES HIS EFFECTIVE AND CONSTRUC-
TIVE EFFORTS AT COMPROMISE, IT IS NOT NOW CLEAR WHAT CHANGES

CHAIRMAN ENGO MAY MAKE TO EVENSEN'S TEXT 2. NOR IS IT CLEAR HOW CERTAIN, OUTSTANDING COMMITTEE I ISSUES ARE TO BE RESOLVED DURING THE REMAINING THREE WEEKS OF THE SESSION. AN UNDESIRABLE EFFORT BY CHRIS PINTO (SRI LANKA) TO OPEN UP MOST OF THE COMMITTEE I ISSUES IN A SMALL NEGOTIATING GROUP, DOES NOT APPEAR LIKELY TO GET OFF THE GROUND. THE G-77 HAS NOT YET CAUCUSED ON EVENSEN'S THIRD REVISION TO THE SYSTEM OF EXPLOITATION. WHEN IT DOES NOT MEET THIS WEEK ITS MEMBERS ARE LIKELY TO REMAIN DIVIDED. THE ONLY POSSIBLE UNIFIED POSITION WOULD BE REJECTION OF THE EVENSEN TEXT.

B. DISCUSSION OF THE EVENSEN DRAFT COMPROMISE ON INSTITUTIONAL QUESTIONS CONTINUES IN A RELATIVELY CONSTRUCTIVE FASHION. EVENSEN'S ARTFUL FORMULATION FOR ARTICLE 27, DEALING WITH COMPOSITION OF THE COUNCIL, HAS WITHSTOOD CRITICISM FROM BOTH THE G-77 AND THE DEVELOPED COUNTRIES. A US AMENDMENT TO FACILITATE COUNCIL ACTION ON CONTRACT APPROVALS HAS A CHANCE OF SUCCESS BY ITS INCLUSION IN EITHER ARTICLE 27 OR 28.

C. UNCERTAINTY ABOUT THE ORGANIZATION OF THE WORK OF THE CONFERENCE DURING THE LAST THREE WEEKS OF THE SESSION IS, HOWEVER, AFFECTING COMMITTEE I. UNCERTAINTY IS COMPOUNDED BY THE FACT THAT CHAIRMAN ENGO'S PLAN REGARDING THE EVENSEN TEXT ARE NOT YET CLEAR. IN PRIVATE CONSULTATIONS ENGO SEEKS ADVICE ON CHANGES TO THE EVENSEN FORMULATIONS. CONFIDENTIAL

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HE HAS SOUGHT PARTICULARLY THE COUNSEL OF KOH (SINGAPORE), RATTRAY (JAMAICA), JAGOTA (INDIA) AND ORREGO (CHILE). THE FIRST THREE OF THESE INFORMAL ADVISORS STRONGLY FAVOR CHANGES TO THE EVENSEN TEXT TO MANDATE THE TRANSFER OF TECHNOLOGY BY STATES AND CONSORTIA TO THE ENTERPRISES. ENGO HAS BEEN WARNED REPEATEDLY THAT INCLUSION OF COMPLUSORY TECHNOLOGY TRANSFER COULD WRECK THE CAREFUL EVENSEN COMPROMISE. NEVERTHELESS, HE PERSISTS IN EXPLORING THESE IDEAS.

D. A NEGOTIATING GROUP OF PRODUCERS AND CONSUMERS, CHAIRED BY ENGO HAS BEGUN WORK ON A COMPROMISE OF THE ARTICLE 9(2) PRODUCTION CONTROL ISSUES. ITS INITIAL EFFORT HAS BEEN TO GET COMMON AGREEMENT ON THE MEANING OF THE EVENSEN TEXT AND TO BEGIN WORK ON AN AGREED FRAMEWORK FOR APPLYING PRODUCTION CONTROLS WITHOUT REGARD TO THE ACTUAL DEGREE OF CONTROL.

E. AN EFFORT, ALSO INITIATED BY ENGO, TO NEGOTIATE AN AGREED SET OF FINANCIAL ARRANGEMENT (ANNEX I, PARAGRAPH 9(D)) IS PROGRESSING SLOWLY. THE INITIAL TEXT, PREPARED BY THE SECRETARIAT, TO BE PRESENTED TO THIS GROUP IS NOT

ACCEPTABLE.

F. IT IS NOT NOW CLEAR HOW OR WHEN COMMITTEE I DISPUTES
SETTLEMENT ISSUES ARE TO BE DISCUSSED.

3. COMMITTEE II

A. THE COMMITTEE CONTINUED DURING THE WEEK TO FOLLOW
PROCEDURES AIMED AT EXPLORING POSSIBLE COMPROMISES ON OUT-
STANDING ISSUES. MONDAY AFTERNOON WAS DEVOTED TO THE SMALL
CONSULTING GROUP ON DELIMITATION. NO PROGRESS WAS MADE IN
BREAKING THE DEADLOCK BETWEEN THOSE STATES WISHING TO GIVE
PRIMACY TO AN EQUIDISTANCE TEST AND THOSE PREFERRING TO USE
EQUITABLE PRINCIPLES. TUESDAY AND WEDNESDAY WERE
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DEVOTED TO NEGOTATING GROUPS OF THE WHOLE, MEETING IN THE
SAME FORMAT AS LAST SESSION. THESE GROUPS, DEALING WITH THE
LEGAL STATUS OF THE ECONOMIC ZONE, THE DEFINITION OF THE
MARGIN AND REVENUE SHARING, AND-DELIMITATION MET SEQUENTIALLY
TO RECEIVE THE REPORTS OF THE VICE-CHAIRMAN AND THE COMMENTS
OF DELEGATIONS. THE NEGOTIATING GROUP ON THE STATUS OF THE
ECONOMIC ZONE REFLECTED THE PRESENT STAND-OFF BETWEEN THE
COASTAL STATES, ON THE ONE HAND, AND THE LL/GDS AND THE MARI-
TIMES ON THE OTHER. THE USSR STRONGLY REJECTED THE
SUI GENERIS CONCEPT. THERE WAS STRONG TERRITORIALIST REAC-
TION TO THE US INTERVENTION, THE PREVIOUS WEEK ON HIGH SEAS
STATES.

NOTE BY OC/T: NOT PASSED ALL DIPLOMATIC POSTS.

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C O N F I D E N T I A L SECTION 2 OF 3 USUN 2096

C O R R E C T E D C O P Y FOR CLASS //CONFIDENTIAL VICE LOU//

FROM: LOS DEL

DEPT. PASS ALL DIPLOMATIC POSTS

B. ON THURSDAY AND FRIDAY, DISCUSSIONS CONTINUED ON THE CONTINENTAL MARGIN AND THE EEZ IN SMALL CONSULTING GROUPS. MARGIN DISCUSSIONS FOCUSED ON THE FEASIBILITY OF THE IRISH FORMULA WITH LL/GDS AND JAPAN ON THE ATTACK; CANADA, IRELAND, AND ARGENTINA DEFENDING. US DID NOT PARTAKE OF DEBATE ON THIS PORTION OF THE GENERAL ISSUES, HAVING PREVIOUSLY COMMENTED.

C. IN THE EEZ GROUP, PERU SUGGESTED APPROACHING THE ISSUE BY SPLITTING THE HIGH SEAS CHAPTER (ARTICLES 76-103) INTO THREE NEW CHAPTERS CONTAINING: (1) THOSE PROVISIONS APPLYING ONLY TO THE HIGH SEAS; (2) THOSE APPLYING ONLY IN THE EEZ; AND (3) THOSE APPLYING TO BOTH. THIS APPROACH WAS OPPOSED BY THE US, USSR AND UK, ON THE GROUNDS THAT IT WOULD REOPEN ISSUES ALREADY SETTLED IN PRESENT
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FORM OF ARTICLE 46(2). THE GROUP THEN MOVED TO A DETAILED DISCUSSION OF ARTICLE 44 DURING WHICH PERU INDICATED THAT IT COULD ACCEPT ARTICLE 44 WITH AN EXPRESS PROVISION THAT COASTAL STATE JURISDICTION SHOULD BE EXERCISED IN ACCORDANCE WITH PROVISIONS OF THE CONVENTION (SIMILAR TO EVENSEN TEXT), BUT ONLY ON CONDITION THAT ARTICLE 46 AND 75 BE LEFT UNTOUCHED.

D. THE REMAINDER OF THE WEEK DEVOTED TO DISCUSSIONS OF MISCELLANEOUS ARTICLES IN INFORMAL SESSION. THIS WAS PRECEDED, HOWEVER, BY A FORMAL MEETING DEVOTED TO A LONG PROCEDURAL WRANGLE OVER COLOMBIAN PROPOSAL REGARDING THE CONTINENTAL MARGIN THAT THE SECRETARIAT PREPARE A CHART SHOWING THE 200 MILE LIMIT, THE 500 METER ISOBATH AND LINE REPRESENTING THE APPLICATION OF THE IRISH FORMULA. THIS PROPOSITION WAS REFERRED TO A WORKING GROUP CONSISTING OF THE DEPUTY SECRETARY-GENERAL AND THE DELEGATES FROM AUSTRIA AND COLOMBIA TO WORK OUT THE TERMS OF REFERENCE FOR SUCH A STUDY.

E. THE WEEK WAS MARKED BY SIGNIFICANT LACK OF REAL NEGOTIATION ON MOST ISSUES. IT APPEARED THAT THE CHAIR WAS TRYING TO RUN OUT THE DISCUSSION WHILE LOOKING FOR NEW APPROACHES. WHILE THE GROUP OF 21 CONTINUED TO ATTEMPT TO DEAL WITH THE SUBJECT OF LL/GDS ACCESS TO LIVING RESOURCES IN THE ECONOMIC ZONE, NO PROGRESS WAS APPARENT.

F. BOTH SPAIN AND MOROCCO ARE PRESSING FOR FORMATION OF A NEGOTIATING GROUP ON STRAITS, WHICH WE ARE RESISTING. OUR PRIVATE MEETINGS WITH SPAIN CONTINUE TO BE DEADLOCKED OVER THIS RESISTENCE TO OVERFLIGHT, BUT THERE IS SOME HINT THAT THEY MAY DROP THIS. WE ARE SURPRISED AT MOROCCAN MOVE IN VIEW OF PREVIOUS COMMENTS IN RABAT. MOROCCO STRONGLY STATES CONFIDENTIAL

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AND MARITIME STATES ARE CLOSE TO AGREEMENT, WITH USDEL RUNNING INTERFERENCE BETWEEN MUTUALLY REINFORCING JAPANESE AND MALAYSIAN MISUNDERSTANDINGS. PRIVATE NEGOTIATIONS WITH INDONESIA ON ARCHIPELAGOS REACHING FINAL STAGE, WITH APPARENT MAIN REMAINING ISSUES BEING CIVIL AVIATION AND IMCO APPROVAL OF LANES.

4. COMMITTEE III

A. SCIENTIFIC RESEARCH - CHAIRMAN YANKOV HELD ONE MEETING WITH ABOUT 25 HEADS OF DELEGATION TO DISCUSS ARTICLE 60 ON BASIC COASTAL STATE RIGHTS REGARDING SCIENTIFIC RESEARCH IN THE ECONOMIC ZONE AND ON THE CONTINENTAL SHELF. YANKOV HAD INTENDED TO FOCUS DISCUSSION ON HIS COASTAL-ORIENTED TEST PROPOSAL BUT, BECAUSE OF INSISTENCE OF US, OPENED MEETING WITH REQUEST FOR COMMENTS ON WHICH PROPOSAL TO USE AS A BASIS FOR NEGOTIATIONS. DISCUSSION WAS INCONCLUSIVE WITH A NUMBER OF DELEGATIONS WANTING TO DISCUSS A WIDE RANGE OF PROPOSALS.

YANKOV SCHEDULED NO FURTHER MEETINGS ON SCIENTIFIC RESEARCH.

B. MARINE POLLUTION - COMMITTEE II AND III BOTH DISCUSSED ISSUE OF RESTRICTION ON COASTAL STATE RIGHTS TO ESTABLISH VESSELS POLLUTION CONTROL REGULATIONS IN THE TERRITORIAL SEA. MOST DELEGATIONS SUPPORTED RESTRICTIONS ELIMINATING ANY LEGISLATIVE POWER OVER THE DESIGN, CONSTITUTION MANNING AND EQUIPMENT OF VESSELS. HOWEVER, A NUMBER DID SUPPORT AN AMENDMENT TO DELETE RSNT RESTRICTION ON OTHER MATTERS REGULATED BY GENERALLY ACCEPTED INTERNATIONAL STANDARDS. US CONTINUED TO ATTEMPT TO ELIMINATE AS MANY RESTRICTIONS AS POSSIBLE BUT MARITIME STATES REMAIN UNITED. A NUMBER OF DEVELOPING COUNTRIES WITH MARITIME ASPIRATIONS SUPPORT

THE RESTRICTIONS. DISCUSSION ON OTHER ISSUES HAS SHOWN
CONSIDERABLE SUPPORT FOR RSNT. VERY FEW PROPOSED AMENDMENTS
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HAVE RECEIVED WIDE SUPPORT. CONSEQUENTLY, IT SEEMS LIKELY THAT
FEW CHANGES WILL BE MADE.

5. PART IV (DISPUTE SETTLEMENT)

A. THE EXPECTED ONSLAUGHT ON ARTICLE 18 (RELATING TO
THREE OPTIONAL EXCEPTIONS; SEA BOUNDARIES, MILITARY ACTIVITIES
AND THE PRIORITY OF SECURITY COUNCIL IN CASE OF CONFLICT
OF JURISDICTIONS) WAS BLUNTED BY PRESIDENT AMERASINGHE'S
AMENDMENTS TO THE THREE CRUCIAL SUBPARAGRAPHS.

NOTE BY OC/T: NOT PASSED.

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C O N F I D E N T I A L SECTION 3 OF 3 USUN 2096

C O R R E C T E D C O P Y FOR CLASS //CONFIDENTIAL VICE LOU//

FROM: LOS DEL

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B. THE SOVIET UNION WAS LESS VIRULENT IN OPPOSITION TO

THE PROVISIO 18(1)(A) AS IT WAS PLEASED BY THE PRESIDENT'S AMENDMENT THAT DELIMITATION PROBLEMS WITH ITS NEIGHBORS WILL NOT BE SUBJECT TO CDS INsofar AS DELIMITATIONS CONCERNING OVER LAND OR INSULAR TERRITORY ARE CONCERNED (OF PARTICULAR IMPORTANCE TO THEM IS THE DISPUTE WITH JAPAN OVER THE KURILES), BUT IT REMAINS UNCLEAR WHETHER TH USSR CAN ACCEPT THE ARTICLE AS AMENDED.

C. ALTHOUGH MANY MEMBERS OF THE GROUP OF 77 SUPPORTED THE DELETION OF THE MILITARY EXCEPTION IN 18(1)(A), THE PRESIDENT'S PROPOSAL TO PROVIDE EQUAL TREATMENT FOR SOME LAW ENFORCEMENT ACTIVITIES OF COASTAL STATES PACIFIED SOME OF THEM..IT WAS EXPLAINED BY THE US AND ACCEPTED BY THE PRESIDENT, THAT SUCH LAW ENFORCEMENT ACTIVITIES WILL BE CONFIDENTIAL

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SUBJECT TO THE EXCEPTIONS OF ARTICLE 17; FOR INSTANCE, THE NEW 18(1)(B) EXCLUSION OF ENFORCEMENT ACTIVITY WILL NOT APPLY TO LAW FORCEMENT ACTIVITIES RELATED TO THE MARINE ENVIRONMENT, AS THEY ARE EXCEPTED UNDER 17(1)(C), AND THESE ACTIVITIES WILL REMAIN SUBJECT TO INTERNATIONAL ADJUDICATION.

D. IN ORDER TO SAVE 18(1)(C), THE PRESIDENT PROPOSED THAT THE SECURITY COUNCIL MAY RETAIN CONTROL OVER A MATTER BY MERELY RETAINING IT ON THE AGENDA. ON THE OTHER HAND, BY A PROCEDURAL DECISION, NOT SUBJECT TO VETO, THE COUNCIL CAN REMOVE A MATTER FROM ITS AGENDA, ALLOWING THE STATES CONCERNED TO PROCEED UNDER PART IV OF THE LOS CONVENTION. IF THERE IS NO DANGER OF VETO, THE COUNCIL CAN RETAIN THE MATTER ON THE AGENDA AND CALL UPON THE PARTIES TO REFER LEGAL ISSUES INVOLVED IN THE DISPUTE TO THE APPROPRIATE JURISDICTION UNDER THE LOS CONVENTION. AS IT IS NOT LIKELY THAT THE COUNCIL WILL REMOVE AN IMPORTANT MATTER FROM ITS AGENDA SIMPLY TO ALLOW PROCEEDINGS ELSEWHERE, THERE IS LITTLE DANGER FOR CONCURRENT PROCEEDINGS ON IMPORTANT ASPECTS OF SUCH ISSUES AS THE MIDDLE EAST. WE HAVE REMAINED IN TOUCH WITH BOTH THE ISRAELI AND EGYPTIAN DELEGATES ON THIS.

E. WHILE THE DISCUSSION ON ARTICLE 18 IS NOT YET OVER, THE AMENDMENTS BY THE PRESIDENT ARE LIKELY TO BE RETAINED AS THE COMPROMISE SOLUTION FOR ALL THREE PRINCIPAL ISSUES, SUBJECT TO POSSIBLE FURTHER SOVIET PRESSURE ON BOUNDARIES.

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